

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of)	
)	
Progressive American Insurance)	Order No. D05-26
Company, Progressive Casualty)	
Insurance Company, Progressive)	Consent Order Imposing a Fine
Classic Insurance Company,)	
Progressive Halcyon Insurance)	
Company, Progressive Max)	
Insurance Company, Progressive)	
Northern Insurance Company,)	
Progressive Preferred Insurance)	
Company, Progressive Specialty)	
Insurance Company, Progressive,)	
West Insurance Company, and)	
Progressive Northwestern)	
Insurance Company,)	
)	
Authorized Insurers)	
)	

FINDINGS OF FACT:

1. Each of the named insurance companies is a member of the Progressive Insurance Group ("Progressive") and holds a certificate of authority in the state of Washington.
2. On August 10, 2001, Progressive filed an auto policy form with the Office of the Insurance Commissioner ("OIC") with an effective date of October 1, 2001. On August 10, 2001, the OIC approved that form. Progressive did not notify the OIC that it would not implement the new form on October 1, 2001 and did not request an extension of the effective date.
3. After October 1, 2001, Progressive issued 21,958 new policies and 35,258 renewal policies, using the old form 9606SA which was not the filing then in effect.

4. On October 9, 2002, the OIC received a telephone call from Progressive, informing it that Progressive had inadvertently charged 359 policyholders a rate in excess of the approved rate and 405 policyholders a rate less than the approved rate.

CONCLUSIONS OF LAW:

1. Progressive's issuance of 57,216 policies using a form as to which the Commissioner's approval did not then exist violated RCW 48.18.100.
2. Progressive's use of rates not in accordance with a filing then in effect violated RCW 48.19.040(6).

CONSENT TO ORDER:

1. RCW 48.05.185 authorizes the Insurance Commissioner to impose a fine in lieu of the suspension or revocation of a company's certificate of authority. The Commissioner has offered a settlement in lieu of suspending or revoking the certificates of authority held by the ten members of the Progressive Group ("Progressive"). Progressive consents to the entry of this Order and admits to the foregoing Findings of Fact and Conclusions of Law. Progressive acknowledges its duty to comply fully with the applicable statutes and regulations of the State of Washington.
2. By agreement of the parties, the Insurance Commissioner will not revoke or suspend any of Progressive's certificates of authority but will impose a collective fine of \$190,732 on Progressive and suspend half of that, \$95,366 for two years from the date of entry of this order on condition that:
 - a. Progressive pay the unsuspended half of the fine, \$95,366, within 30 days of the date this Order is entered; and
 - b. That none of the ten members of the Progressive group commit any further violations of the statutes or regulations which are the subject of this Consent Order for a period of two years from the date on which this Order is entered. The Insurance Commissioner will not impose the suspended portion of the fine nor proceed against any insurer's certificate of authority for isolated, de minimis violations (as determined by the Insurance Commissioner) of the statutes or regulations which are the subjects of this Order during the two-year suspense period. Progressive commits to rectifying any such violation promptly, once any such violation is discovered; and
 - c. That Progressive fulfill all terms of the Compliance Plan attached as Exhibit A and incorporated herein by reference.
 - d. If any member of the Progressive Group commits any additional violation of the statutes or regulations which are the subject of this Order or fails to fulfill all of the terms of the attached Compliance Plan within two years of the entry of this Order, the suspended half of the fine will be immediately due and payable, together with such other

and additional fines and sanctions which may be levied for such additional violations. But if no member of the Progressive Group commits any such additional violation during the two-year suspense period and if Progressive fulfills all terms of the attached Compliance Plan, then the Insurance Commissioner will waive the suspended half of the fine at the end of that two-year period.

3. Pursuant to RCW 48.05.185, failure to pay the unsuspended half of the fine timely and in full, or to fulfill all the above listed conditions, shall constitute grounds for suspension or revocation of any or all of the ten certificates of authority held by the ten members of the Progressive Group, and for recovery of the entire amount of the collective fine in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

Dane A. Schrallow, Secretary of
the following insurers:

Progressive American Insurance Company
Progressive Casualty Insurance Company
Progressive Classic Insurance Company
Progressive Northern Insurance Company
Progressive Northwestern Insurance Company
Progressive Preferred Insurance Company
Progressive Specialty Insurance Company
Progressive West Insurance Company

Michael R. Uth , Secretary of
the following insurers:

Progressive Halcyon Insurance Company
Progressive Max Insurance Company

ORDER

Pursuant to RCW 48.05.185, the Insurance Commissioner imposes a collective fine of \$190,732 upon the ten members of the Progressive group, in lieu of suspension or revocation of any or all of the certificates of authority held by the members of that group in the state of Washington. Of this amount, half, \$95,366, will be suspended for two years after the date of entry of this order, upon the following conditions:

1. That the ten members of the Progressive Group pay the unsuspended half of the fine, \$95,366, within 30 days after the entry of this order; and

2. That no member of the Progressive Group commit any further violation of the statutes and regulations which are the subject of this Order. The Insurance Commissioner will not impose the suspended half of the fine nor proceed against any insurer's certificate of authority for isolated, de minimis violations (as determined by the Insurance Commissioner) of the statutes and regulations which are the subject of this order, during the two-year suspension period; and each member of the Progressive group commits to rectifying such violations promptly when any violation is discovered; and

3. That failure to pay the unsuspended half of the fine, \$95,366, not later than thirty days after the entry of this order will constitute grounds for the suspension or revocation of any or all of the certificates of authority held by the members of the Progressive group. It will also result in a civil action to collect the entire fine of \$190,732 on behalf of the Insurance Commissioner, brought by the Attorney General of the State of Washington; and

4. If no member of the Progressive Group commits any further violation of the statutes and regulations which are the subject of this Order during the period of two years after the entry of this Order, the Insurance Commissioner will waive the suspended half of the fine at the end of the suspension period. However, if any member of the Progressive Group does commit any additional violation of those statutes or regulations within that suspension period, then the entire amount of the fine, \$190,732 will become immediately due and payable, together with such other and further fines and sanctions levied because of any such additional violation.

ENTERED AT TUMWATER, WASHINGTON, this _____ day of _____, 2005.

MIKE KREIDLER
Insurance Commissioner

William Kirby
Legal Affairs Division